

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

PUBLIC SERVICES – Prohibition & Excise Department – Allegation of Corruption against Sri R. Jagadeeswara Rao, formerly Prohibition & Excise Inspector (Retd.), Gannavaram, Krishna District – Trapped by ACB on 25.11.1998 - Prosecuted in a Court of Law – Acquitted by Hon’ble Special Judge for S.P.E & ACB cases, Vijayawada in judgment dt.30.11.2005 in C.C.No.17/2000 – Further action dropped – Regularization of Suspension period – Orders issued.

REVENUE (Vig.V) DEPARTMENT

G.O.Rt.No. 1659

dated:26.11.2012.

Read the following:-

1. Director General, Anti-Corruption Bureau, Hyderabad, Letter (Final Report) Rc.No.196/RCT-VKI/98, dt.6.7.1999.
2. G.O.Ms.No.898, Revenue (Excise.I) Department, dt.27.12.1999.
3. From the Director General, Anti Corruption Bureau, Hyderabad., Lr.C.No.196/RCT-VKI/98-S9, dated:03.12.2005 and 17.03.2006.
4. Judgment dt.30.11.2005 in C.C.No.17/2000 of Special Judge for SPE & ACB cases, Vijayawada.
5. Govt. Memo No.58354/Vig.V(1)/2005-3, dt.1.7.2006.
6. From the Commissioner of Prohibition & Excise, A.P., Hyderabad., Lr on Cr.No.37/98/CPE/SR.I, dt.29.09.2006.
7. Govt. Memo No.58354/Vig.V(1)/2005-6, dt.10.11.2006.
8. APAT orders dt.28.04.2010 in O.A.No.2712/2012 and petitioners affidavit is received from the Assistant Registrar, APAT, Hyderabad dt.6.5.2010.
9. Govt. Memo No.58354/Vig.V(1)/2005-14, dt.20.10.2010.
10. Orders of the Hon’ble Tribunal dt.31.10.2012 in O.A.No,2712/2012 received from the Asst. Registrar, APAT, Hyd., dt.09.11.2012.

ORDER:

Sri R. Jagadeeswara Rao, formerly Prohibition & Excise Inspector, Gannavaram, Krishna District was trapped by the ACB authorities on 25.11.1998 on the allegation of demand and acceptance of bribe for doing official favour to a wine shop dealer who is resident of Ameenapuram (V), Vuyyuru (M), Krishna District.

- 2) In the reference 1st read above, the Director General, ACB, in his final report dt.6.7.1999, has recommended for prosecution of Sri A. Jagdeeswara Rao in a Court of Law.
- 3) In the reference 2nd read above Government have issued orders to prosecute the A.O. in a Court of Law.
- 4) In the reference 4th read above, the Special Judge for SPE & ACB cases, Vijayawada found the Accused Officer not guilty for the offence under sections 7 and 13(2) read with 13(1)(d) of P.C.Act 1998 and acquitted the Accused Officer under section 248 (1) Cr.P.C.
- 5) After careful examination of the matter, Government have decided to drop further action against Sri R. Jagadeeswara Rao and accordingly in the reference 5th read above the Commissioner of Prohibition & Excise, A.P., Hyderabad was requested to take further action.
- 6) In the reference 6th read above, the Commissioner of Prohibition & Excise has requested the Government to issue necessary instructions for treatment of regularization of suspension period of the individual.
- 7) After examination of the matter, the Commissioner of Prohibition & Excise (vide reference 7th read above) was requested to treat the suspension period of the individual as “not on duty”, as the acquittal of the individual was not on merits of the case but because most of the PWs turned hostile.
- 8) Aggrieved by the above, the individual has approached the Hon’ble A.P. Administrative Tribunal by filing O.A.No.2712/2012 with a prayer to declare the Memo No.58354/Vig.V(1)/2005-6, Rev (Vig.V) Dept., dt.10.11.2006 as illegal, arbitrary and violative of principles of natural justice and consequently requested to direct the respondents to treat his suspension period from 12.12.1998 to 18.04.2002 as “on duty” with all consequential benefits (reference 8th cited).

(P.T.O)

9) In the reference 9th read above, Counter Affidavit has been filed before the Hon'ble APAT, Hyderabad.

10) In the reference 10th read above, the Hon'ble APAT in its orders dt.31.10.2012 in O.A.No.2712/2012 have issued orders as follows:-

“.....:

where an employee has been found in a regular trial, not to be guilty of any misconduct or commission of any crime or other misconduct, it will be wholly unreasonable to hold that the employee should still suffer the loss of remuneration and other benefits for the period of his suspension which merges in his order of acquittal. It amounts to sanctioning and awarding punishment to an innocent party.

The order of suspension merges in and automatically ceases to be operative upon the passing of the final order of acquittal in criminal proceedings. The effect of such a merger would clearly revive the temporarily suspended rights of the employee to get his full remuneration for the period of suspension.

As per the record, there is no further proceedings pending against the Applicant and the action, that was initiated against him, at the instance of the ACB., ended in acquittal and the further proceedings against the Applicant were dropped by the Government. Therefore, the Applicant is entitled to get the period of suspension from 12.12.1998 to 18.04.2002 treated as 'on duty'. Though the Applicant has requested for monetary benefit also for the said period, in the light of the latest judgments of the Honourable Supreme Court stating that 'No Work, No Pay', the Applicant is not entitled for any monetary benefits, for the suspension period, except the subsistence allowance according to Rules. However, the Respondents are directed to treat the period of suspension as 'duty' for the purposes of seniority, increments and pensionary benefits except monetary benefits. The O.A., is accordingly disposed of. No costs.”

11) Government after careful examination of the matter in detail, hereby decided to implement the above orders of the Hon'ble APAT and accordingly order that the suspension period of Sri R.Jagadeeswara Rao from 12.12.1998 to 18.04.2002 be treated as “on duty” for the purposes of seniority, increments and pensionary benefits except monetary benefits on the principle of 'No Work, No Pay'. He will be entitled to receive only the subsistence allowance during the period of suspension.

12) The Commissioner of Prohibition & Excise, A.P., Hyderabad shall take necessary further action in the matter accordingly.

ASUTOSH MISHRA
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Commissioner of Prohibition & Excise,
A.P., Hyderabad.
Sri R. Jagadeeswara Rao, Prohibition & Excise Inspector (Retd.)
Through the Commissioner of Prohibition & Excise,
A.P., Hyderabad.

Copy to:-

The Deputy Commissioner of Prohibition & Excise,
Kakinada, East Godavari District.
The District Treasury Officer, East Godavari District at Kakinada.
The Director of Treasuries & Accounts, A.P., Hyderabad.
The Accountant General, A.P., Hyderabad.
The Government Pleader for Revenue (Ser.),
A.P. Administrative Tribunal, Hyderabad. **(with a request to appraise the position to Hon'ble Tribunal)**
File/SF/SCs.

//FORWARDED :: BY ORDER//

SECTION OFFICER